

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK; STATE OF  
CONNECTICUT; STATE OF DELAWARE;  
COMMONWEALTH OF MASSACHUSETTS;  
STATE OF NEW JERSEY; and the CITY OF  
NEW YORK,

Plaintiffs,

No. 21 Civ. 252 (ALC)

v.

MICHAEL S. REGAN, in his official capacity as  
the Administrator of the United States  
Environmental Protection Agency, and the  
UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY,

Defendants.

**STIPULATION AND ORDER REGARDING ATTORNEYS' FEES AND COSTS**

WHEREAS, on January 12, 2021, Plaintiffs the States of New York ("New York State"), Connecticut, Delaware, Massachusetts, and New Jersey, and the City of New York (together with New York State, the "Plaintiffs") filed Case No. 21 Civ. 252 (ALC) against Andrew R. Wheeler, in his official capacity as the Administrator of the United States Environmental Protection Agency, and the United State Environmental Protection Agency ("EPA" and, with the Administrator, "Defendants");

WHEREAS, Michael S. Regan was sworn in as EPA Administrator on March 11, 2021, and is automatically substituted as a party for former Administrator Andrew Wheeler, pursuant to Federal Rule of Civil Procedure 25(d);

WHEREAS, the merits of this action were resolved by a Consent Decree entered by this Court on November 15, 2021, Dkt. No. 38;

WHEREAS, EPA's obligations under the Consent Decree were completed on February 13, 2023, and the Consent Decree was automatically terminated pursuant to its paragraph 6 on the same date, subject to the Court's retaining jurisdiction pursuant to its paragraphs 6, 10, and 14 to entertain a motion for costs of litigation (including attorneys' fees);

WHEREAS, the Consent Decree provided that Plaintiffs may move for costs of litigation within 90 days after the termination of the Consent Decree, *see id.* ¶ 14, a deadline that this Court later extended solely for New York State to June 16, 2023, Dkt. No. 42;

WHEREAS, the time for all Plaintiffs other than New York State to seek attorneys' fees has accordingly passed;

WHEREAS, New York State and Defendants seek to resolve New York State's claims for attorney's fees and costs on the terms provided herein, in the interest of judicial economy and without any admission of law or fact.

NOW, THEREFORE, New York State and Defendants, intending to be bound by this Stipulation, hereby agree as follows:

1. As soon as practicable after the Court has endorsed and docketed this Stipulation as an Order of this Court, the United States shall pay \$25,464.90 to New York State by electronic funds transfer in accordance with instructions provided to counsel for EPA by New York State's counsel. This payment shall constitute full satisfaction of any and all costs of litigation, including reasonable attorney fees, incurred by New York State in connection with this action as of the date of entry of this Stipulation as an Order of the Court. Such payment releases the United States, including EPA and Administrator Michael S. Regan, from any claims regarding such fees.

and costs that New York State has asserted or could have asserted under any provision of law in connection with this litigation as of the date of entry of this Stipulation.

2. Any obligation of the United States to expend funds under this Stipulation is subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. § 1341 ("Anti-Deficiency Act"). This Stipulation shall not be construed to require the United States to obligate or pay funds in contravention of the Anti-Deficiency Act.

3. The parties understand and agree that the amount agreed to is a compromise of a claim and there is no admission by any party regarding liability for, or the amount of, fees that could be sought or recovered in this action.

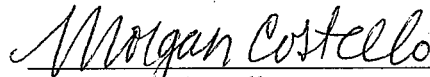
4. The Court shall retain jurisdiction to enforce the terms of this Stipulation.

5. The undersigned representatives of the parties certify that they are fully authorized by the parties they represent to enter into and execute the terms and conditions of this Stipulation. By signature below, all parties consent to this Stipulation.

6. This Stipulation is subject to the approval of the Court. In the event that the Court declines to approve this Stipulation, it shall be null and void, with no force or effect.

Dated: June 15, 2023

FOR THE STATE OF NEW YORK  
LETITIA JAMES  
*Attorney General of New York*



Morgan A. Costello  
Chief, Affirmative Litigation  
Claiborne E. Walthall  
Assistant Attorney General  
New York State  
Office of the Attorney General  
The Capitol  
Albany, NY 12224  
Telephone: (518) 776-2380  
Email: Claiborne.Walthall@ag.ny.gov

COUNSEL FOR DEFENDANT:

Dated: June 15, 2023

DAMIAN WILLIAMS  
United States Attorney

By:



PETER ARONOFF  
Assistant United States Attorney  
United States Attorney's Office  
Southern District of New York  
86 Chambers Street  
New York, New York 10007  
Peter.aronoff@usdoj.gov  
(212) 637-2697

SO ORDERED on this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
ANDREW L. CARTER, JR.  
United States District Judge